

HOUSE BILL 393

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2004 Regular Session
(4r1613)

ENROLLED BILL

-- Economic Matters/Education, Health, and Environmental Affairs --

Introduced by **Delegates V. Clagett, McIntosh, Amedori, Bartlett, Bobo,
Bohanan, G. Clagett, Elliott, Glassman, Goldwater, James, Kach, Krebs,
McConkey, Morhaim, Parrott, Stull, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Alcoholic Beverages - Winery Special Event and Charity Wine Auction**
3 **Permits**

4 FOR the purpose of ~~altering the length of time for which a winery special event~~
5 ~~permit is effective; altering the frequency for issuing permits increasing the~~
6 ~~maximum number of winery special events permits that may be issued in any~~
7 ~~calendar year~~ altering the frequency for issuing winery special event permits;
8 repealing a certain requirement for the issuance of a permit; altering the fee for
9 charity wine auction permits; and generally relating to winery special event and
10 charity wine auction permits.

11 BY repealing and reenacting, with amendments,
12 Article 2B - Alcoholic Beverages
13 Section 2-101(o) and(u)(1) and (2)
14 Annotated Code of Maryland

1 (2001 Replacement Volume and 2003 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article 2B - Alcoholic Beverages**

5 2-101.

6 (o) (1) In this subsection the following words have the meanings indicated.

7 (i) "Charitable organization" means an organization that is a
8 benevolent, educational, philanthropic, humane, patriotic, religious, or eleemosynary
9 organization that solicits or obtains contributions solicited from the public for
10 charitable or benevolent purposes, and that is registered with the Secretary of State as
11 required by law.

12 (ii) "Charitable organization" includes a chapter, branch, area
13 office, or similar affiliate which has its principal place of business outside the State.

14 (iii) "Charitable organization" does not include a political party,
15 political committee, political club, an agency of the State government or political
16 subdivision, a fraternal organization, fire fighters, rescue or ambulance squads, or
17 police or other law enforcement organization.

18 (2) A wine auction permit, provided for under this subsection, may not be
19 issued for use within Montgomery County.

20 (3) The Office of the Comptroller may issue a 1-day wine auction permit
21 to a charitable organization.

22 (4) The permit authorizes the holder to sell wine at public or private
23 auction to any consumer through the solicitation and acceptance of bids.

24 (5) The permit may be granted for:

25 (i) An unlicensed premises;

26 (ii) A Class B or C licensed premises; or

27 (iii) In Baltimore City, a Class B-D-7 licensed premises.

28 (6) The permit fee is [\$500] \$10.

29 (7) (i) The permit authorizes the holder to conduct 1 auction of wine
30 during a calendar year.

31 (ii) Only 1 permit shall be issued to each charity during a calendar
32 year.

33 (8) (i) A permit holder may receive wine for the auction from:

- 1 1. A wholesaler licensed under this article;
 2 2. A Class 3 or Class 4 winery licensed under this article;
 3 3. A retail dealer licensed under this article;
 4 4. A private individual residing in the State; or
 5 5. A business entity that is located in the State and not
 6 licensed under this article.

7 (ii) A permit holder may receive commercially-produced wine that is
 8 not authorized for distribution and sale in the State from:

- 9 1. A nonresident private individual; or
 10 2. A business entity that is located outside of this State.

11 (9) (i) Wine that is received from the following sources is subject to
 12 Maryland tax as provided under § 5-102 of the Tax - General Article:

- 13 1. Wholesalers licensed under this article;
 14 2. Class 3 and 4 wineries licensed under this article; and
 15 3. Any other source outside of this State.

16 (ii) Wine that is received from the following sources is presumed to
 17 have been tax-paid:

- 18 1. Retail dealers licensed under this article;
 19 2. Private individuals residing in this State; and
 20 3. Business entities that are located in this State and not
 21 licensed under this article.

22 (10) (i) Within 30 days from the close of the auction, the permit holder
 23 shall file a report and pay all taxes that are due and owing on the wine that is received
 24 for the auction.

25 (ii) The report shall be filed with the Office of the Comptroller and
 26 shall include the total number of gallons of wine that was received for the auction and
 27 the sources from which it was received.

28 (iii) The Office of the Comptroller shall provide the forms for the
 29 report.

30 (11) The Office of the Comptroller may require that, within 7 days from the
 31 date of the auction, the permit holder prepay a satisfactory sum to cover the
 32 anticipated wine tax that is due and owing.

1 (12) (i) *Wines that have been purchased at auction shall be delivered to*
 2 *the purchaser at the event or from a licensed warehouse or retail premises or other*
 3 *premises that is approved by the Office of the Comptroller.*

4 (ii) *All wines delivered are subject to the applicable State sales taxes.*

5 (13) *Notwithstanding any other provision of this article, any person*
 6 *authorized to sell wine at retail may purchase any wine offered at a wine auction,*
 7 *provided for under this section, in an amount not exceeding 5 gallons (18 liters) and*
 8 *may resell it in accordance with the terms of their license.*

9 (14) *The Office of the Comptroller may adopt regulations to implement the*
 10 *provisions of this subsection.*

11 (u) (1) The Office of the Comptroller may issue a winery special event
 12 permit to a licensed Class 4 Maryland limited winery, provided that:

13 (i) No more than 12 winery special event permits are issued to the
 14 Class 4 Maryland limited winery in any given calendar year;

15 (ii) The permit does not exceed ~~{3} 10~~ consecutive days; and

16 (iii) No more than ~~one~~ THREE winery special event ~~permit is~~
 17 PERMITS ARE issued in any calendar ~~{year}~~ MONTH to any given limited winery for
 18 use in the same political subdivision.

19 (2) The winery special event permit may only be issued for an event
 20 which:

21 (i) Has as its major purpose an activity other than the sale and
 22 promotion of alcoholic beverages and for which the participation of the winery is a
 23 subordinate activity;

24 (ii) [Is organized and conducted by a nonprofit organization or
 25 government entity;

26 (iii)] Is approved by the Department of Agriculture and the Office of
 27 the Comptroller; and

28 [(iv)] (III) Is held on a nonlicensed premises or a premises on which a
 29 person may obtain a temporary alcoholic beverages license.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 31 June 1, 2004.

